
(2002) 09 AHC CK 0208
In the Allahabad High Court
Case No : C.M.W.P. No. 33217 of 2002

Dinesh Yadava and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 11-09-2002

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2002) 5 AWC 3646

Hon'ble Judges : N.K. Mehrotra, J;G.P. Mathur, J

Bench : Division Bench

Advocate : R.K. Mishra and M.C. Dwivedi, for the Appellant; S.C, for the Respondent

Final Decision : Dismissed

Judgement

G.P. Mathur, J.—This petition under Article 226 of the Constitution has been filed praying that a writ of mandamus be issued commanding the Respondents to allow the Petitioners to work as part time guest lecturers till regularly selected candidates are available to join the posts. Another prayer has been made to quash the order dated 29.6.2002 passed by the State Government.

2. We have heard learned Counsel for the Petitioners and have perused the record. Under the Rules, the selection for the post of lecturer in a Government Polytechnic has to be made by the Public Service Commission. A Government order was issued authorising the Principals of the Polytechnics to utilise the services of guest lecturers for taking theory and practical classes in the Government Polytechnics where there was shortage of teachers. The case of the Petitioners is that no regular selection on the post of the lecturers in Government Polytechnics has been done by the U.P. Public Service Commission and number of posts were lying vacant and thereafter the Principal of the institution employed them as guest lecturers. They filed Writ Petition No. 2329 (SS) of 2002 at Lucknow Bench praying that a writ of mandamus be issued commanding the Respondents to allow them to work in the institution. A further prayer was made

to issue a direction to grant them the pay scale of Rs. 8,000-13,500. The said writ petition was disposed of with a direction to the State Government to decide the representation of the Petitioners. The representation made by the Petitioners have been rejected by the State Government by the order dated 29.6.2002, which is subject matter of challenge in the present writ petition.

3. It is noteworthy that the Petitioners have neither been selected in any selection process nor they have been given any appointment order. Since the Petitioners have not been given any appointment in the Polytechnic, there was no question of issuing any direction to the effect that they should be allowed to continue till the regularly selected candidates joined the institution. They were merely performing same work as guest lecturer for which remuneration was paid on the basis of number of lectures given. Similarly, there was no occasion for issuing a direction to pay them regular pay scale of Rs. 8,000-13,500.

4. Sri. M. C. Dwivedi learned Counsel for the Petitioners has referred to a decision of a learned single Judge in Shesh Narain Misra and Ors. v. Director of Education (Secondary), U.P. and others 2001 (1) ESC 347, and has submitted that the Petitioners should not be replaced by some other ad hoc lecturers. In our opinion, the authority cited is completely distinguishable on facts. The Petitioners in the aforesaid case had been appointed on ad hoc basis and in their appointment orders, a condition was mentioned that their services would stand terminated on 14.5.1992. The teachers were doing full time work and were also getting the salary of a teacher. In the case in hand, no appointment order at all has been issued in favour of the Petitioners nor they have been paid regular salary on monthly basis. They merely worked as guest lecturers and were paid remuneration according to the number of periods, which they taught.

5. The writ petition lacks merit and is hereby dismissed summarily at the admission stage.